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BRIEFING MEMO

OUT OF STATE INMATE TRANSFER

The California Department of Corrections and Rehabilitation (CDCR) is working to identify facilities throughout the country where California inmates can be temporarily moved for the next three to five years to relieve severe overcrowding in the state's prisons. California's prison population is at an all time high with more than 170,000 inmates housed in facilities designed for 100,000, and 29 of the state's 33 prisons above maximum safe capacity. Governor Schwarzenegger's emergency proclamation will provide immediate relief for severe overcrowding in these facilities.

1. How will inmates be selected to be transferred out of state?

Inmates who volunteer to be transferred to a prison outside of California will be selected first. The CDCR has conducted an informal survey to identify inmates who may choose to volunteer for out-of-state placement. Once the voluntary list is exhausted, inmates will be transferred involuntarily, in keeping with the Governor's proclamation of a State of Emergency. Involuntary transfers will only occur if the voluntary transfers do not immediately mitigate the severe overcrowding in the 29 identified prisons and the resulting impacts within California.

2. How many inmates will be transferred out of state?

In response to CDCR's informal survey, more the 19,000 inmates have expressed an interest in transferring to a correctional facility outside of California. The number of inmates who can be transferred will depend on how many meet the criteria of the out-of-state facilities that are chosen in contract negotiations. Inmates, for example, must be compatible with the security level of an out-of-state facility (low, medium or maximum security) before being transferred there. CDCR officials are assessing facilities in all of the states that have expressed an interest in housing California inmates. When those assessments are completed and contracts are negotiated, the Department can more definitively identify which type or how many inmates can be housed in facilities outside of California.

3. How does Governor Schwarzenegger's proclamation of an emergency help CDCR relieve overcrowding?

The Governor's emergency proclamation helps to accelerate CDCR's efforts to move inmates by streamlining the contracting process. As a result, inmates may be moved to out-of-state facilities months earlier than they would otherwise without the

emergency order in effect. The declaration also allows the CDCR to involuntarily transfer inmates out-of-state if necessary.

CDCR is ready to enter into contracts that could result in housing for 2,000 to 5,000 inmate beds. In addition to providing much needed relief to overcrowding, it is anticipated that the contracts could reduce the cost of housing those inmates by up to 15 percent, compared to costs in California.

4. What is the criteria for involuntary transfers?

If the inmate population is not reduced to a safe margin by voluntary transfers, the Governor's emergency proclamation outlines criteria to be used to determine which inmates will be transferred involuntarily. In priority order, that criteria includes: 1) inmates who have been previously deported by the federal government and are criminal aliens subject to deportation or who have committed an aggravated felony as defined by federal statute and are subject to deportation; 2) inmates who are being paroled outside California; 3) inmates who have limited or no family ties, based on a review of their visitation history; 4) inmates who have supportive family in another state; and 5) other inmates chosen and considered appropriate by CDCR.

5. What about medical treatment? Will CDCR work in consultation with the Federal Court Receiver and the Special Master?

Governor Schwarzenegger's emergency proclamation directs CDCR to consult with the court-appointed Receiver running the state prisons medical system and the court-assigned Special Master in the Coleman mental health case. Consultation with the Receiver and Special Master will ensure that inmates designated in their class action will receive appropriate care/treatment in keeping with court standards.

6. What efforts has the CDCR made to identify out-of-state facilities with available beds?

On July 15, 2006, the CDCR issued a Request for Information (RFI) nationwide to determine if any out-of-state beds were available. As a result, public and private correctional operators from 23 states responded offering nearly 15,000 potential beds.

In September 2006, four teams of CDCR officials traveled to nine states to inspect sites that had the potential to immediately house California inmates.

CDCR staff in Sacramento also polled Department of Corrections officials in states across the country in search of additional facilities or to explain the state's plan for housing inmates in those states.

As of September 27, 2006, CDCR has received letters of intent from correctional facilities with beds in nine states representing a total of 4,700 potential beds. CDCR staff is developing a classification process to identify inmates eligible for transfer so that they can be matched up to available facilities.

7. How many inmates have volunteered to be moved?

Non-binding surveys were given to approximately 140,000 inmates in September. Of that, 19,501 responded positively. However, the number of inmates to be transferred will be determined when CDCR complete its assessment of the out-of-state facilities. These assessments will help identify which category of inmates the facilities are able to house. Because the survey was non-binding, the number of inmates who actually volunteer may significantly increase or decrease when inmates are re-interviewed to assess the interest and asked to sign binding contracts for transfer. Inmates have a right to consult with legal counsel concerning what such a transfer means.

8. How much will it cost? More or less than in California?

Part of the assessment team's responsibility is to measure the costs against the benefits of each facility. The actual housing costs for each out-of-state facility will be negotiated through a contract. Factors that can influence that cost include the security level of the facility (maximum security is more costly than minimum security) or the breadth of services that it provides. The overriding goal is to house our inmate population as cost-effectively as possible and still be able to provide the necessary security along with the tools an inmate will need to successfully reintegrate into our communities. Currently, the average cost to house an inmate in California is approximately \$35,000 per year.

9. What states are being considered?

In response to Requests for Information (RFI) issued by CDCR this summer, facilities in the following states have expressed an interest in housing California inmates: Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Iowa, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Oklahoma, Oregon, Texas and Wisconsin. Companies with correctional facilities in nine states have also submitted letters of intent. The assessment teams are reviewing the bed space options in those states to determine if they meet CDCR standards.

10. Will these inmates be housed in private prisons or in government-run prisons?

Inmates may be housed in either government or privately-run correctional facilities. The correctional facility, regardless of ownership, must meet CDCR standards identified in the California Code of Regulations, Title 15, for housing our inmate population. Facilities must also provide incarceration that is consistent with constitutionally adequate housing, care, and programming.

Currently, both government agencies and private correctional corporations have expressed an interest in housing California inmates.

11. What criteria will be used to determine where inmates go?

The criteria set forth in the California Code of Regulations, Title 15, and the CDCR Operations Manual will be used to determine an out-of-state facility's ability to house inmates. The most important factor will be matching inmates to their proper security level. Other criteria will be determined by negotiations and documented in individual contracts. Some facilities, for example, may only have the ability to take medium security level inmates and might choose to accept only inmates with a minimum or maximum number of years remaining on their sentence. Others may or may not choose to accept sex offenders or lifers. An inmates' preference in location, including if relatives are nearby, will be considered in determining the appropriate placement.

12. How are they going to be transported?

Transportation will be negotiated with the facility contractor or with another party to provide safe and adequate transportation of inmates. Any transportation of California inmates will meet all CDCR standards for security, including properly restrained inmates escorted by well-trained, armed transportation staff. Inmates will be transported in non-commercial airplanes.

13. How will the other state facilities be staffed? Will they be as secure as California prisons?

Staffing will be considered during the contract negotiations process. A minimum staffing level is set by custody level and facility design. For example, an older facility generally requires a larger number of staff because of its floor layout and overall design. Newer facilities generally have built-in security and are designed to create a secure environment with a smaller number of staff. Maximum security facilities also generally require more staffing than lower level security facilities. Should a facility not offer a staffing package deemed safe and that meets CDCR's criteria for design and security, the CDCR will not enter into a contracted agreement.

14. Will transfers affect staffing in California prisons?

All of the state's existing levels of staff will continue to be needed in California. Transferring inmates to other states will reduce severe overcrowding, thereby improving staffing ratios, reducing the need for overtime hours. As a result, correctional officers and other staff will be working in a safer facility. The CDCR will continue to expand its recruitment efforts to fill vacant positions among correctional officers and is planning to expand academies to train new recruits.

15. Will inmates be returned to California for parole?

Generally, all inmates who are transferred to other states will be returned to California and will be paroled to the county in which they lived prior to being sent to prison, as required by California state law. Inmates whom the federal government has identified for immediate deportation will be turned over to federal authorities for deportation proceedings.

16. Has the CDCR met with stakeholder groups on the decision to transfer inmates out of state?

Yes. CDCR has discussed plans to transfer inmates with the court-appointed Receiver who oversees the prison system's medical programs and the Special Master who oversees mental health programs, the California Correctional Peace Officers Association (CCPOA), the Prison Law Office and legislative leaders.

17. Relieving overcrowding was supposed to make room for programs in California prisons. Will these out-of-state facilities offer rehabilitation and vocational training?

Overcrowding in California's prisons has significantly hampered CDCR's ability to employ meaningful programming for inmates due to lack of space. The immediate reduction in inmates will provide space in California's prisons for programs for inmates. In addition, out-of-state facilities contracted by the Department will be required to offer a full range of programming that participating inmates would not otherwise receive in California.

18. Will inmates who transfer out-of-state be given a sentence reduction?

No. Inmate sentences will not be reduced due to participation, nor will inmate sentences change to the sentencing structure of the state in which the inmate is transferred. All inmate sentences will be overseen by California law.

19. Is California the only state to send inmates out of state?

No. Currently, a number of states, including Alaska, Washington, Idaho, Hawaii and Louisiana, send inmates out of their states. Colorado is currently pursuing similar transfers.

20. Why does California's severe prison overcrowding constitute an emergency under the Emergency Services Act?

Because conditions of extreme peril to the safety of persons and property exist in 29 CDCR prisons due to the severe overcrowding, as identified in the Governor's proclamation, and the magnitude of the situation exceeds the capabilities of any geographical area in this state. There is substantial risk to the health and safety of staff, inmates, and the public due to the current severe overcrowding. There also is substantial risk of damage to state and private property. The counties within the state are harmed by this situation as well, because the inability to appropriately house inmates directly impacts local jail capacity and the early release of felons, and the local authority is not enough to cope with this emergency. This crisis spans the eastern, western, northern, and southern parts of the state and compromises the public's safety.

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